

California Regional Water Quality Control Board
North Coast Region

CLEANUP AND ABATEMENT ORDER NO. R1-2002-0090

FOR

WALTER PROPERTIES, INC.
WILLIAM OCCHIPINTI
OCCHIPINTI'S INCORPORATED
ATLANTIC RICHFIELD COMPANY

210 FIFTH STREET
SANTA ROSA

Sonoma County

The California Regional Water Quality Control Board, North Coast Region, (hereinafter Regional Water Board), finds that:

1. Walter Properties, Inc., owns property and the underground storage tank (UST) system at 210 Fifth Street in Santa Rosa, California (Assessors Parcel Number 010-071-009) (hereinafter Site). Walter Properties purchased the Site from Atlantic Richfield Company (ARCO) on June 28, 1985. ARCO owned the Site from approximately 1954 to June 28, 1985. William Occhipinti began station operation in 1975 and continued to operate the station as an ARCO gasoline retailer until approximately 1986. Occhipinti's Incorporated currently operates the station as Occhipinti's One Stop Service. Walter Properties, William Occhipinti, Occhipinti's Incorporated and ARCO are hereinafter collectively referred to as the Dischargers.
2. The Site is bordered on the north by Fifth Street, on the west by Davis Street and Railroad Square, on the south by Fourth Street, and on the east by Highway 101. Land use in the vicinity of the Site is commercial and includes retail shops and restaurants. The nearest sensitive receptors include Santa Rosa Creek and a water supply well both located approximately 1,125 feet west of the Site.
3. On May 23, 1985, the underground storage tank system was tested for leakage and two 6,000-gallon steel tanks failed the test. The super-unleaded tank was reported to be leaking at a rate of 1.425 gallons per hour and the regular tank was reported to be leaking at a rate of .375 gallons per hour. At the time of this underground storage tank system test, the site was owned by ARCO and operated by William Occhipinti.
4. In 1996, an application for a permit to reline the three metal USTs at 210 Fifth Street was submitted to the Santa Rosa Fire Department (SRFD). This application was submitted by Sessions Tank Liners, Inc., on behalf of Occhipinti's Service Station. The SRFD issued the permit. The permit required the collection of soil samples from soil borings prior to tank relining. The tanks were relined in 1996 without the collection of the required soil samples.
5. The organic compound Methyl tert Butyl Ether (MTBE) was detected in groundwater in 1996 in groundwater samples obtained at 123 Fourth Street at up to 380 parts per billion (ppb). That property (123 Fourth Street) is located west and down gradient of 210 Fifth

Street. Gasoline storage and use at 123 Fourth Street, predates the use of MTBE as an oxygenating agent in gasoline. The underground storage tanks and associated dispensing equipment and improvements at 210 Fifth Street are the only known UST system in the vicinity storing fuel that contains MTBE. In September 2001 MTBE was also detected at up to 120 ppb in groundwater immediately west of Wilson Street. This location is approximately 800-1000 feet down gradient from 210 Fifth Street.

6. The discovery of MTBE in groundwater down gradient of the operating gasoline station prompted the June 12, 1998, Regional Water Board staff request that the Dischargers, at the time identified as Walter Properties, Inc., and William Occhipinti, submit a work plan to investigate the impact to water quality. A work plan was submitted in April 2000 for the drilling of one onsite soil boring to confirm a release at 210 Fifth Street. The analytical results revealed the presence of Total Petroleum Hydrocarbons as gasoline (TPHg) in groundwater at 35,000 parts per billion (ppb). Benzene, toluene, ethylbenzene, xylenes (BTEX) and MTBE were also detected.
7. In October 2000, Regional Water Board staff requested the submittal of a work plan to define the extent of groundwater contamination. A work plan was submitted in November 2000 and implemented in August 2001 for the collection of grab groundwater samples. The analytical tests revealed the presence of separate phase hydrocarbons on groundwater in the vicinity and west of the USTs. Maximum concentrations of dissolved petroleum hydrocarbons in soil (in parts per million) and groundwater (in parts per billion) were:

| Maximum Concentrations of Petroleum Hydrocarbons | Soil (ppm) | Groundwater (ppb) |
|--|------------|-------------------|
| Gasoline | 2600 | 120,000 |
| Diesel | 580 | 2,300,000 |
| Benzene | 4.8 | 1800 |
| MTBE | 13 | 49,000 |

8. Subsurface investigative work has been conducted in three phases beginning in September 2001 through May 2002 to define the extent of groundwater contamination. The results show a significant petroleum hydrocarbon and MTBE plume originating from the Site extending west to Wilson Street. The vertical extent of MTBE contamination has not been investigated.
9. MTBE is present in soil and groundwater beneath and west of the Site. Regional Water Board staff has assigned a Priority Class A to the Site as defined in the State Water Resources Control Board draft "Guidelines for Investigation and Cleanup of MTBE and Other Ether-Based Oxygenates." This priority ranking is based on key factors including the distance to the nearest sensitive receptors and the levels of MTBE in soil and groundwater beneath the Site. Priority A, sites with high concentrations of MTBE and large release mass should have concentrations and mass reduced before the contaminated groundwater plume can spread beyond its existing boundaries. Long-term impacts to water quality are likely to be reduced and cost effectiveness increased if interim remediation is performed. Aggressive interim remediation in the source area can help minimize the formation of a larger diluted plume of MTBE. A large diluted plume would be more difficult to remediate and could have widespread impacts.

10. On February 13, 2002, Cleanup and Abatement Order (CAO) No. R1-2002-0024 was issued to Walter Properties, Inc., and William Occhipinti. Based on the available information at that time, ARCO was not included as a discharger in CAO No. R1-2002-0024. The dischargers (Walter and Occhipinti) complied with provisions A, C, F, and G of the CAO. Provision C required the submittal of an interim remediation plan to remove separate phase hydrocarbons and impacted soil and groundwater from around and beneath the underground storage tanks, piping and dispensers. On March 14, 2002, an interim plan was submitted containing a proposal to remove the underground storage tank system, separate phase hydrocarbons and impacted soil and groundwater. The dischargers failed to comply with Provision D by not implementing the interim plan by the July 2, 2002, compliance date.
11. On June 13, 2002, and June 27, 2002, SRFD staff conducted an annual inspection regarding compliance with California Code of Regulations (Title 23, Division 3, Chapter 16) and the Health and Safety Code. On June 28, 2002, SRFD notified William Occhipinti of violations including:
 - Failure to annually certify the underground storage tank monitoring system.
 - Failure to certify the cathodic protection system within six months following installation and every three years thereafter.
12. Additional responsible parties may exist, including past operators. Continued review of the historical record, facts, data and information may result in additional parties being named in this Order as Dischargers, in which case this Order would be revised.
13. The Dischargers have caused or permitted, cause or permit, or threaten to cause or permit waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance. Continuing discharges are in violation of the Porter-Cologne Water Quality Control Act and provisions of the Water Quality Control Plan for the North Coast Region (Basin Plan).
14. Existing and potential beneficial uses of areal groundwater include domestic, irrigation, and industrial supply. Beneficial uses of Santa Rosa Creek, a tributary to the Laguna de Santa Rosa and the Russian River are:
 - a. municipal and domestic supply
 - b. agricultural supply
 - c. industrial process supply
 - d. groundwater recharge
 - e. navigation
 - f. hydropower generation
 - g. water contact recreation
 - h. non-contact water recreation
 - i. commercial and sport fishing
 - j. warm freshwater habitat
 - k. cold freshwater habitat
 - l. wildlife habitat
 - m. migration of aquatic organisms
 - n. spawning, reproduction, and/or early development.

15. The California Water Code, and regulations and policies developed thereunder require cleanup and abatement of discharges and threatened discharges of waste to the extent feasible. Cleanup and abatement activities are to provide attainment of background levels of water quality or the highest water quality that is reasonable if background levels of water quality cannot be restored. Alternative cleanup levels greater than background concentration shall be permitted only if the discharger demonstrates that: it is not feasible to attain background levels; the alternative cleanup levels are consistent with the maximum benefit to the people of the State; alternative cleanup levels will not unreasonably affect present and anticipated beneficial uses of such water; and they will not result in water quality less than prescribed in the Basin Plan and Policies adopted by the State and Regional Water Board.
16. Water quality objectives in the Basin Plan are adopted to ensure protection of the beneficial uses of water. The most stringent water quality objectives for protection of all beneficial uses are selected as the protective water quality criteria. Alternative cleanup and abatement actions must evaluate the feasibility of, at a minimum: (1) cleanup to background levels, (2) cleanup to levels attainable through application of best practicable technology, and (3) cleanup to protective water quality criteria levels. Exhibit 1, attached to and made part of this Order, sets out the water quality objectives for groundwater.
17. Discharge prohibitions contained in the Basin Plan apply to this site. State Water Resources Control Board Resolution 68-16 applies to this site. State Water Resources Control Board Resolution 92-49 applies to this site and sets out the "Policies and Procedures for Investigation and Cleanup and Abatement of Discharges under Section 13304 of the California Water Code."
18. The Regional Water Board will ensure adequate public participation at key steps in the remedial action process, and shall ensure that concurrence with a remedy for cleanup and abatement of the discharges at the site shall comply with the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA").
19. The issuance of this Cleanup and Abatement Order is an enforcement action being taken for the protection of the environment and, therefore, is exempt from the provisions of CEQA in accordance with Section 15308 and 15321, Chapter 3, Title 14 of the California Code of Regulations.
20. Any person affected by this action of the Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with Section 13320 of the California Water Code and Title 23, California Code of Regulations, Section 2050. The petition must be received by the State Water Board within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request. In addition to filing a petition with the State Water Board, any person affected by this Order may request the Regional Water Board to reconsider this Order. Such request should be made within 30 days of the date of this Order. Note that even if reconsideration by the Regional Water Board is sought, filing a petition with the State Water Board within the 30-day period is necessary to preserve the petitioner's legal rights. If you choose to appeal the Order, be advised that you must comply with the Order while your appeal is being considered.

THEREFORE, IT IS HEREBY ORDERED that, Cleanup and Abatement Order No. R1-2002-0024 is rescinded and pursuant to California Water Code Sections 13267(b) and 13304, the Dischargers shall cleanup and abate the discharge and threatened discharges forthwith and shall comply with the following provisions of this Order:

- A. Conduct all work under the direction of a California registered civil engineer or geologist experienced in soil, groundwater and surface water assessment and remediation.
- B. Abate the discharge to soil and groundwater forthwith.
- C. Implement the March 14, 2002 "Interim Remediation Work Plan" (Work Plan) within 30 days of issuance of this Order in accordance with all SRFD permitting and regulatory requirements. The scope of work outlined in the Work Plan includes the removal of product and impacted soil and ground water around and beneath the underground storage tanks, fuel dispensers and associated piping at 210 Fifth Street.
- D. Submit a report of findings for work required by provision C within 45 days of work plan implementation.
- E. Implement the June 23, 2002, "Work Plan for Ground-Water Monitoring" prepared by the McEdwards Group including any work plan addendum within 45 days of the Regional Water Board Executive Officer concurrence with the plan.
- F. Submit a report of findings within 45 days of work plan implementation including an adequate work plan of any additional effort necessary to define the extent of contamination.
- G. Continue with Tasks E and F until the horizontal and vertical extent of groundwater contamination has been defined.
- H. Submit a Corrective Action Plan (CAP) according to the requirements of Title 23, Division 3, Chapter 16, Article 11, Section 2725 within 60 days of Regional Water Board Executive Officer's determination that Tasks E and F have been completed.
- I. Submit a copy of the Sessions Tank Liners, Inc., report for tank relining at 210 Fifth Street including the SRFD required pre-lining soil sample locations, methods and analytical results and the condition of the USTs prior to relining, within 30 days of issuance of this Order.
- J. Submit a list of interested party names and addresses, including all landowners in the area located west of Highway 101 to Santa Rosa Creek, north of Third Street, south of Sixth Street within 30 days of issuance of this Order.
- K. Complete any additional work deemed reasonably necessary by the Regional Water Board Executive Officer to abate and cleanup the discharge of waste.
- L. If, for any reason, the Dischargers are unable to perform any activity or submit any documentation in compliance with the work schedule contained in this Order or submitted

pursuant to this Order and approved by the Executive Officer, the Dischargers may request in writing, an extension of time as specified. The extension request must be submitted 5 days in advance of the due date and shall include justification for this delay including the good faith effort performed to achieve compliance with the due date. The extension request shall also include a proposed time schedule with new performance dates for the due date in question and all subsequent dates dependent on the extension. A written extension may be granted for good cause, in which case the Order will be revised accordingly.

Ordered by _____

Susan A. Warner
Executive Officer

September 5, 2002